

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK**

**CIVIL CONFERENCE
MINUTE ORDER**

BEFORE: STEVEN I. LOCKE
U.S. MAGISTRATE JUDGE

DATE: 10/15/24
TIME: 11:00 am

CASE: CV 23-2084 (GRB) Siteone Landscaping Supply LLC v. Giordano et al

TYPE OF CONFERENCE: MOTION

FTR: 10:54-11:44;11:58-1:31

APPEARANCES:

For Plaintiff: Kevin Gibbs

For Defendant: Michael Mule, Colleen O'Neil and Robert Milman

THE FOLLOWING RULINGS WERE MADE:

- ☒ ORDER: The parties' discovery motions, DE [141], [142], [144], [148], [152], [153], [154], [155], [156], [157], [158], [163], [171], and [172], are collectively granted in part and denied in part, as follows, applying the date range from October 19, 2022 to the present unless otherwise indicated:
1. Defendants will produce will the following communications between Vic, Nick and Don on landscape-related issues, the process for which will include: (a) electronic searches of documents and emails consistent with the search terms discussed by the parties during the break in the proceedings, including but not limited to the horseblock property; (b) a manual search of texts by defense counsel; and (c) call logs for the individuals. The production will include both hit counts for the electronic searches and responsive documents.
 2. Defendants will produce SiteOne-employee communications about leaving SiteOne and coming to Scapes. As to customers solicitations, Defendants will produce the solicitations for the period of April and May 2023. Depending on the productions, Plaintiff may seek to expand the search in a manner proportional to the needs of the case. Defense counsel may review specific customers from Plaintiff's customer list with the individual Defendants for this purpose.
 3. As to the amount of business Scapes does in competition with Plaintiff, Defendants will produce figure(s) demonstrating the amount of business Scapes does on a yearly or other basis such that in the event Plaintiff is able to establish a violation of their rights as asserted in the Amended Complaint, a damages calculation can be made. Defendants will also produce documents supporting these calculations. These total numbers will be produced in total and broken down by customer. This ruling is proportional to the needs of the case and eliminates the need for Defendants to produce all of their financial records as discussed in Court.

4. As to financial records for Vic, Vic has only banked with American Community Bank and Plaintiff now has those records. As for Narrow Way Realty (“NRW”), NRW also only banks with American Community Bank. As to Nick, Defendant will produce Bank records for the period January 1, 2024 to May 31, 2024 relating to transactions with the named Defendants or individuals or entities controlled by the named Defendants.
5. As to information concerning “competing entities,” Defendants will provide a list of all entities in which Don, Vic and Nick have or had an interest, the dates they had those interests, the nature of the interest, e.g., ownership, and an explanation of each entity’s business, sufficient for Plaintiff to consider whether each entity has a relationship to landscaping and what the nature of that relationship is.
6. For Scapes, all formation, leasing and/or purchase documents for the three properties at issue, and corporate minutes will be produced.
7. Vic is the owner of Narrow Way Realty, NW2, G5 and Neway Mgmt. Defendants will produce formation documents for these entities.
8. Defendants will identify their IT vendors to Plaintiff.
9. DE [163], [171] are withdrawn without prejudice.
10. Plaintiff’s motion to quash, DE [142], is granted for the reasons set forth on the record. The subpoenas are nothing more than a fishing expedition, and in any event, are disproportionate to the needs of the case.

All of the motions are denied in all other respects.

Defendants will produce the information addressed above no later than November 26, 2024.

On December 26, 2024, the parties will file a joint letter-status report not to exceed 5-pages that includes a schedule for all the depositions to be taken, expert disclosures and agreed upon dates for a status conference.

SO ORDERED

/s/Steven I. Locke
STEVEN I. LOCKE
United States Magistrate Judge